



**IOWA DEPARTMENT OF HUMAN SERVICES  
IOWA MEDICAID ENTERPRISE  
Iowa Medicaid  
DRAFT - Accountable  
Care Organization (ACO) Agreement**

This Agreement is entered into by the following parties:

<b>Agency of the State (hereafter “Agency” or “Department”)</b>
<b>Name/Principal Address of Agency:</b> Iowa Medicaid Enterprise 100 Army Post Rd Des Moines, IA 50315 <b>Phone: 515-256-4609</b>

<b>Accountable Care Organization : (hereafter “ACO”)</b>	
<b>Legal Name:</b>	<b>ACO’s Principal Address:</b>
<b>Tax ID #:</b>	<b>Organized under the laws of:</b> State of Iowa
<b>ACO Agreement Manager Name/Address (“Notice Address”):</b>	<b>ACO Billing Contact Name/Address:</b>
<b>Phone:</b>	<b>Phone:</b>
<b>E-Mail:</b>	

<b>Agreement Information</b>	
<b>Start Date:</b>	<b>End Date: NA</b>
<b>ACO Provider a Business Associate? Yes</b>	<b>Agreement Payments include Federal Funds? Yes</b>
<b>Agreement Include Sharing SSA Data? Yes</b>	<b>Agreement Contingent on CMS Approval of Waiver: Yes</b>
<b>ACO a Qualified Service Organization? Yes</b>	<b>If No CMS Approval of Waiver, Agreement shall be null and void</b>

<b>Agreement Execution</b>
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This Agreement consists of the above information and the attached Terms. In consideration of the mutual covenants in this Agreement and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties have entered into this Agreement and have caused their duly authorized representatives to execute this Agreement.

<b>ACO</b>	<b>Agency, Iowa Department of Human Services</b>
Signature of Authorized Representative:	Signature of Authorized Representative:
Printed Name:	Printed Name:
Title:	Title: Director

Date:	Date:
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DRAFT

**IOWA DEPARTMENT OF HUMAN SERVICES  
IOWA MEDICAID ENTERPRISE  
Iowa Medicaid Accountable  
Care Organization (ACO) Agreement**

***1.1 Agreement Purpose.***

- 1.1.1.** This Agreement is between the State of Iowa, Department of Human Services, (the “Department”) and the Accountable Care Organization (“ACO”). The operations management responsibility for the Iowa Medicaid Program is through the Iowa Medicaid Enterprise (the “IME”), a business unit of the Iowa Department of Human Services.
- 1.1.2.** This agreement outlines the duties and responsibilities of the parties and shall continue in force until amended by the Department pursuant to section xx or terminated by either party pursuant to section xxx. Pursuant to these termination provisions, this Agreement may be terminated and superseded by an Agreement for the implementation of the state-wide ACOs as part of the State Innovation Model (SIM).
- 1.1.3.** The Department of Human Services establishes Agreements with ACOs to provide integrated and accountable care, improve health outcomes, and enhance patient access for Iowa Wellness Plan members. The ACO shall demonstrate an integrated delivery system and share clinical information in a timely manner; and implement a model of care and financial management structure that promotes provider accountability, quality improvement, and improved health outcomes. Iowa Wellness Plan members [as defined in Section xxx](#) may select or be attributed by the State to a Patient Manager that is part of an ACO or to one not part of an ACO.
- 1.1.4.** The Iowa Wellness Plan is a public insurance program implemented in accordance with the Patient Protection and Affordable Care Act (ACA) and Iowa Code Chapter 249N and is subject to the provisions of the Iowa Administrative Code. The participating Iowa Medicaid ACO agrees to abide by all applicable laws, regulations, rules, and policies of the Wellness Plan program and Iowa Medicaid participation.
- 1.1.5.** The ACO shall at all relevant times be an active Iowa Medicaid provider and be subject to the terms of the Medicaid Provider Agreement which is incorporated herein by reference.

***1.2 Special Definitions***

The following definitions apply to this ACO Agreement.

**Healthy Behaviors Accounts** – A program offered to Wellness Plan members that provide incentives to complete activities identified as healthily behaviors.

**Patient manager (PM)** as used in this Agreement is a provider who has signed both a Wellness Provider Agreement and a Medicaid Provider Agreement, is part of an ACO, and agrees to accept the terms of the agreement with the ACO to serve as a primary care/patient-centered medical home for the member.

**Performance Year** is the year described in the Value Index Score Medical Home Bonus Document that represents the period in which the ACO is being measured for quality bonus payments.

**Recalibration** is an activity done by the IME to establish the VIS baseline and/or the VIS performance results, as needed, in an effort to ensure accuracy.

**Value Index Score Medical Home Bonus Document** is a document developed and maintained by the IME that describes the methodology in which the VIS Medical Home Bonus program operates.

***1.3 Performance Targets and Payments***

- 1.3.1. The ACO will receive bonus payment according to the performance targets and methodology detailed in the Value Index Score Medical Home Bonus Document which is incorporated into this Agreement by reference.
- 1.3.2. If the ACO qualifies, the Agency will pay the ACO three (3) bonus payments according to the provisions and the details outlined in the Value Index Score Medical Home Bonus Document. The Agency will pay the ACO all bonus dollars for which its PMs are eligible. The three (3) additional bonuses are as follows:
  - 1.3.2.1. A Physical Exam Bonus if at least 85 percent of members who have been attributed for at least six (6) months have received a physical exam during the Performance Year. The Physical Exam Bonus will be \$10.00 per year per member that received the physical exam.
  - 1.3.2.2. A Value Index Score (VIS) Medical Home Bonus of up to \$4.00 per member per month (PMPM) based on performance in meeting measures aligned with core attributes of good primary care. These measures are: (1) person-focused care; (2) first contact with the health care system; (3) comprehensive, coordinated care and (4) transfer of information.
  - 1.3.2.3. An ACO Incentive of an additional \$4.00 PMPM for assisting in the transformation to a person centered delivery system. To receive this bonus, the ACO shall: (1) provide Member education and outreach to ensure Iowa Wellness Plan members attributed to its PMs are aware of Iowa Wellness Plan benefits; (2) provide education and outreach to support members in adopting healthy behaviors; (3) provide education on the premiums for which members might be responsible; (4) provide resources to its PMs that include collection and evaluation of health risk assessment, support in providing after-hours care, and establishing urgent care centers and supporting efforts in ongoing member outreach and education.
  - 1.3.2.4. The ACO shall be solely responsible for receiving any bonus payment made by the Department under this Agreement. The Department will not make any bonus payments to any ACO PMs. The ACO shall be solely responsible for determining the distribution methodology of such payments and for ensuring the distribution of any payments.

#### *1.4 Scope of Work*

##### **1.4.1. Deliverables, Performance Measures, and Monitoring Activities.**

- 1.4.1.1. **General.** The ACO shall possess the corporate resources and structure necessary to perform its responsibilities under the Agreement and successfully implement and operate the ACO. The ACO shall be responsible for the activities, tasks, and deliverables outlined herein.
- 1.4.1.2. **ACO Agreements.** The ACO shall advise its PMs in writing regarding the ACO's obligations under this Agreement. The ACO shall enter into written agreements or contracts with the PMs under which they (a) agree to comply with the terms imposed on the ACO under this Agreement; and (b) attest to understanding that the Department will provide the ACO with claims information that relates to services the PMs provided to members. The ACO shall execute and deliver to the Department annual certification of its compliance with this Section 1.4.1 and shall attest to the fact that the PMs are agreeing to these terms.
- 1.4.1.3. **ACO Communication of Obligations.** Upon notice from the Department of any amendments, changes or terminations to this Agreement, the ACO shall inform its PMs of the content of the notice. The Department reserves the right to specify that it will provide the notice and information directly to the PMs. The ACO shall require its PMs agree that the notice from the Department to the ACO is deemed to be notice from the Department to each of the ACO's PMs.
- 1.4.1.4. **Maintenance of Participating Provider Agreement.** During the Term of this Agreement, each PM covered by both a Wellness Provider Agreement and a Medicaid Provider Agreement shall not be in breach or in default thereunder. The State will remove the non-compliant PM from the performance measures effective the date of such noncompliance.

- 1.4.1.5. Tax IDs.** The ACO shall provide to the Department the list of provider tax IDs subject to this ACO Agreement and shall include tax IDs of all PMs attributed to the ACO. The ACO shall update the list within thirty (30 days) of any tax ID changes.
- 1.4.1.6. Governance Structure.** The ACO shall have an established governing body with responsibility for setting policy, developing and implementing a model of care, establishing best practices, setting and monitoring quality goals, and assessing PM performance and addressing deficiencies. The ACO shall demonstrate meaningful involvement of a Chief Medical Officer and PMs in the governance structure.
- 1.4.1.7. Consumer Advisory Board.** The ACO shall have a consumer advisory board that meets regularly and advises on ACO policies and programs including cultural competency, outreach plans, member education materials, prevention programs, member satisfaction surveys, and quality improvement programs.
- 1.4.1.8. Health Information Technology.** The ACO shall securely pass clinical information among its PMs to aggregate and analyze data to coordinate care. The ACO must have information technology to support care management, HIPAA compliant transactions, data reporting functionality, and quality improvement. The ACO shall have a current Iowa Health Information Network (IHIN) Participation Agreement and shall utilize both Direct Messaging and query capabilities as available. The ACO shall work with the Department to use IHIN capabilities to regularly exchange Admission Discharge Transfer (ADT) data no later than July 1, 2015.

#### **1.4.2. Personnel**

- 1.4.2.1.** The ACO shall designate at least one (1) individual within its organization to serve as a liaison between the ACO and the Department for the purposes of this Agreement. The ACO shall inform the Department in advance of changes in such designation.
- 1.4.2.2.** The ACO shall have a Chief Medical Officer that shall be a physician and shall be responsible for the implementation of all clinical and/or medical programs implemented by the ACO as well as overseeing the development and implementation of the model of care for the integrated delivery system.
- 1.4.2.3.** The ACO shall provide staff necessary to ensure that functions related to outcomes and performance improvement management, medical management and care coordination activities, communications management and provider relations and network management are performed.

#### **1.4.3. Client Contact and Engagement**

- 1.4.3.1.** The ACO shall promote member education and informed decision-making regarding healthy lifestyle choices, medical treatment and all aspects of the member's own health care. This education shall include an overview of the Iowa Wellness Plan (including but not limited to education about premiums for which they might be responsible) and how to navigate services within the Iowa Wellness Plan. The ACO shall also encourage members attributed to its PMs to receive preventive services and to partake of other activities that will permit them to receive incentive payments in their Healthy Behaviors Accounts. The ACO's strategies to this education and informed decision-making may include but are not limited to:
  - 1.4.3.1.1.** A comprehensive approach to promoting healthy behavior that takes into consideration factors that affect healthy behavior, such as community and cultural practices and standards, daily work and life opportunities and limitations, and member awareness of how behavior affects health. This approach may include clinical, personal and community-based strategies. The ACO is encouraged to develop relationships with non-medical personnel to support this education and engagement.
  - 1.4.3.1.2.** Use of motivational interviewing to create member-centered, directive methods for increasing the member's intrinsic motivation to change behavior.
  - 1.4.3.1.3.** Use of member decision aids.

- 1.4.3.1.4. Provision of community health education, either provided by the ACO or provided in partnership with existing community of health educators, to help members make lifestyle choices that lead to better health.
- 1.4.3.2. The ACO shall require that all its PMs obtain from all attributed members, any consents and authorizations necessary to comply with applicable law in order that the ACO may access reports and other member information as part of the ACO Program.

#### 1.4.4. Network Strategy and Management

- 1.4.4.1. **PM Requirements.** The ACO shall have adequate PMs to serve its assigned number of members.
- 1.4.4.2. **Member Attribution.** The Department will attribute Iowa Wellness Plan members to PMs according to the signed Wellness Provider Agreements with the Department and the capacity reported to the Department by the ACOs and PMs for the Iowa Wellness Plan population.
- 1.4.4.3. The ACO shall agree to serve at least 10,000 Wellness Plan members who will be attributed to its PMs.
- 1.4.4.3.1. The enrollment minimum may be waived in extraordinary circumstances if requested by the ACO on behalf of the PM. The decision to lower the limit will be made on an individual basis and will be solely at the discretion of the Department.
- 1.4.4.3.2. Based on market demand, the ACO shall service up to an additional 10,000 Wellness Plan members during the second year of this Agreement.
- 1.4.4.4. **Exclusivity of Provider Tax IDs** For purposes of ensuring the accuracy of attribution and results of Performance Measures, the ACO shall ensure that all participating provider tax IDs are exclusive to this Agreement. The ACO shall promptly (within two (2) business days) notify the Department in the event that a provider tax ID is no longer participating in the ACO. In the event the Department becomes aware that a provider tax ID is no longer participating in the ACO or is seeking to participate in more than one ACO that has a signed ACO Agreement with the Department, the Department will promptly notify both ACOs. The ACOs involved shall resolve any issues. In the event the issue cannot be resolved within thirty (30) days of any Notice required by this Section, Section "X.XX" the Department will determine, in its discretion, which ACO shall include the ACO provider tax ID and shall provide Notice to the ACOs in question of such determination.
- 1.4.4.5. **Changes in ACO Providers.** The ACO may add PMs at any time except that new PMs entering the identified provider tax IDs are subject to the bonus payment methodology detailed in the Value Index Score Medical Home Bonus Document.
- 1.4.4.6. **Recalibration.** If there is an event that permits Recalibration as defined in the Value Index Score Medical Home Bonus Document, the Department may, upon request by the ACO, perform an analysis of whether Recalibration should occur. The Department may also initiate a Recalibration and will notify the ACO prior to such action.
- 1.4.4.7. **Extended Hours.** The ACO shall ensure its PMs provide for extended hours on evenings and weekends for member appointments. The ACO shall determine the appropriate requirements for the number of extended hours and weekend availability based on the needs of its service area and submit these requirements to the Department for approval. At a minimum, the ACO shall provide for twenty-four (24) hour a day availability of information, referral and treatment of emergency medical and behavioral health conditions. The ACO shall have a plan for providing after-hours urgent care coverage. The ACO shall submit this plan to the Department for review and approval.
- 1.4.4.8. The ACO shall have a system to track member access to services at the PM level, including (1) requests for same-day care, (2) requests for routine care and (3) the number of days a member waits for an appointment.
- 1.4.4.9. The ACO shall ensure that members have access to specialists and other Medicaid providers with a referral and without compromising the member's health or quality of care.
- 1.4.4.10. The ACO shall develop relationships with providers that are not ACO PMs and with community resources in its service area. The ACO shall document its relationships with those providers and community resources and provide documentation to the Department upon request.

- 1.4.4.11. The ACO shall establish and follow a communication plan that will promote communication between the ACO, the PMs, the managed behavioral health organization and other community resources.

#### 1.4.5. Support to PMs

- 1.4.5.1. The ACO shall provide support to PMs in meeting Iowa Wellness Plan requirements and shall provide support and training in approaches to engaging members, to encouraging them to receive preventive care and to participating in their own health and health care. The ACO shall provide its member engagement plan to the Department for review and approval. The plan shall articulate the ACOs responsibilities and the PMs roles and responsibilities in engaging members.
- 1.4.5.2. The ACO shall have an internet-accessible website that contains a network directory listing of PMs, a provider page or section that contains a description of the support the ACO offers to providers, an online library of available tools, screenings and clinical guidelines as well as other practice improvement activities, templates and trainings.
- 1.4.5.3. The ACO shall share with its PMs the data reports and systems provided by the Department and explain the practical uses of the available reports.

#### 1.4.6. Medical Management and Care Coordination

- 1.4.6.1. The ACO shall have a plan for coordinating behavioral health and physical health services and/a plan for coordinating and partnering with community-based organizations to further PM outreach capabilities. The ACO shall submit its written plan that explains their approach to meeting these requirements to the Department for review and approval.
- 1.4.6.2. **Care Model.** The ACO shall establish a model of care agreed to and implemented by all of its PMs. The model of care shall meet standards that assure quality, improve the health of the population and, over time, reduce overall cost. The Department reserves the right to review and approve policies and procedures for all aspects of an ACO's model of care prior to implementation.
- 1.4.6.3. The ACO shall provide care coordination for its members, necessary for them to achieve their desired health outcomes in an efficient and responsible manner. The ACO may allow its PMs to perform some or all of the care coordination activities, but the ACO shall be responsible for the ultimate delivery of care coordination services. Regardless of the responsible party, the ACO shall:
- 1.4.6.3.1. Determine if the providers involved in each member's care are providing necessary care coordination services and which care coordination services are insufficient or are not provided; and
- 1.4.6.3.2. Ensure that PMs who are responsible for the member's care develop a plan for regular communication with the person(s) who are responsible for the member's care coordination.
- 1.4.6.4. The ACO's care coordination system shall have the ability to:
- 1.4.6.4.1. Assess the member's health, health behavior risks and medical and non-medical needs using a formal Health Risk Assessment (HRA) tool. The ACO shall conduct HRAs for at least eighty-five percent of all new members within sixty days of enrollment;
- 1.4.6.4.2. Link members to both medical services and to non-medical, community-based services, such as food assistance, housing and utilities assistance;
- 1.4.6.4.3. Provide assistance during care transitions from one setting to another, such as from hospitals to other care institutions or home or community-based settings;
- 1.4.6.4.4. Respond to and resolve grievances and document and track both the grievance and the resolution.
- 1.4.6.4.5. Follow-up with the member to assess whether the member has received needed services and if the member is on track to reach their desired health outcomes.
- 1.4.6.4.6. Ensure services are provided in a client/family centered manner meaning that members, and their families if applicable, are active participants in their care to the extent they are willing and able;
- 1.4.6.4.7. Provide services and care to the member in a linguistically and culturally appropriate manner that is consistent with the member's cultural beliefs and values;

- 1.4.6.4.8. Be comprehensive and focus on ensuring that physical, behavioral, social and other services are continuous and comprehensive and that the service providers communicate with one another;
- 1.4.6.4.9. Provide a primary contact for the member, whether a team approach is utilized or not; and
- 1.4.6.4.10. Provide ongoing training and support of PMs participating in the care coordination.

#### 1.4.7. Department Responsibilities and Monitoring

##### 1.4.7.1. The Department will:

- 1.4.7.1.1. Provide the ACO with periodic cost and utilization reports to enhance health care management and coordination that will support member education efforts, and allow PMs to compare peer utilization levels.
- 1.4.7.1.2. Utilize its managed health care advisory committee to examine peer utilization and establish standards for acceptable levels of utilization, consult and make recommendations for action on quality of care issues, and make recommendations for corrective action measures to take with PMs when utilization of quality of care deficiencies are identified.
- 1.4.7.1.3. Ensure that enrollments, disenrollments, requests for exception to policy, appeals, and access to the state's fair hearing system are in compliance with state and federal laws and regulations.
- 1.4.7.1.4. Establish protocols for (1) PMs to use in authorization of medical services in routine, urgent, and emergent situations, (2) reviewing and acting upon utilization review reports, and (3) other procedures necessary for the administration of the Wellness Plan. These protocols will be created in cooperation with the managed health care advisory committee and will be published in the form of a Department of Human Services provider manual.
- 1.4.7.1.5. Provide tools and reports of the Iowa Wellness Plan members attributed to the PMs within the ACO. The information available in the tools and reports shall be in form and content acceptable to the Department, including without limitation, the data elements available through the tools and reports, which shall, at a minimum, include those tools and reports identified in Exhibit "X" attached hereto. The Department will periodically seek input from the ACO as to expanded content of the tools and reports.
- 1.4.7.1.6. Provide PMs with a monthly report of Wellness members attributed to them.
- 1.4.7.1.7. Provide the ACO with a monthly report of all Wellness members attributed to the PMs within the ACO.
- 1.4.7.1.8. Provide PMs and ACOs with dashboard reports via Treo Solutions VIS measurements. These will be updated monthly.

##### 1.4.7.2. **Agency Monitoring Clause.** The Department's Agreement manager or designee will:

- 1.4.7.2.1. Verify member counts and supporting documentation prior to payment;
- 1.4.7.2.2. Determine compliance with general Agreement terms, conditions, and requirements;
- 1.4.7.2.3. Review all plans and reports as required from the ACO;
- 1.4.7.2.4. Conduct random and secret shopper calls to assess 24-hour access for members and average wait time for scheduling appointments; and
- 1.4.7.2.5. Assess compliance with deliverables, performance measures, or other associated requirements in accordance with the monitoring activities as set forth in this Agreement.

##### 1.4.7.3. **Agency Review Clause.** The Agreement manager or designee will use the results of monitoring activities and other relevant data to assess the ACO's overall performance and compliance with the Agreement. At a minimum, the Agency will conduct an annual review; however, reviews may occur more frequently at the Agency's discretion. As part of the review(s), the Agency may require the ACO to provide additional data, may perform on-site reviews, and may consider information from other sources.

- 1.4.7.3.1. The Agency may require one or more meetings to discuss the outcome of a review. Meetings may be held in person. During the review meetings, the parties will discuss the deliverables that have



been provided or are in process under this Agreement, achievement of the performance measures, and any concerns identified through the Agreement monitoring activities.

- 1.4.7.3.2. Problem Reporting.** As stipulated by the Agency, the ACO and/or Agency shall provide a report listing any problem or concern encountered. Records of such reports and other related communications issued in writing during the course of Agreement performance shall be maintained by the parties. At the next scheduled meeting after a problem has been identified in writing, the party responsible for resolving the problem shall provide a report setting forth activities taken or to be taken to resolve the problem together with the anticipated completion dates of such activities. Any party may recommend alternative courses of action or changes that will facilitate problem resolution. The Department has final authority to approve problem-resolution activities.
- 1.4.7.3.3.** The Agency's acceptance of a problem report shall not relieve the ACO of any obligation under this Agreement or waive any other remedy. The Agency's inability to identify the extent of a problem or the extent of damages incurred because of a problem shall not act as a waiver of performance or damages under this Agreement.
- 1.4.7.4. Addressing Deficiencies.** To the extent that deficiencies are identified in the ACO's performance and notwithstanding other remedies available under this Agreement, the Agency may require the ACO to develop and comply with a plan acceptable to the Agency to resolve the deficiencies.

#### **1.4.8. Notice and Termination**

- 1.4.8.1.** The ACO shall notify the Agency within thirty days of any change in licensure, address, practice, or any other factor that may impact participation in the Iowa Wellness ACO program.
- 1.4.8.2.** This Agreement is binding until such time as the Iowa Wellness Plan is not a valid and federally approved program or until the Agreement is terminated according to the following provisions:
- 1.4.8.2.1.** Either party may terminate the Agreement by providing the other party with written notice sixty (60) days in advance of the desired date of termination or removal, to allow sufficient time for Members to be attributed to other Iowa Wellness PMs;
- 1.4.8.2.2.** This agreement may be terminated if the Agency has imposed any sanction on the ACO under 441 Iowa Admin. Code section 79.2 or the Agency determines that the ACO has failed to carry out the substantive terms of this agreement; or
- 1.4.8.2.3.** The Agreement shall automatically terminate upon bankruptcy, dissolution or sale of the ACO.
- 1.4.8.3.** This Agreement is not transferrable.

#### **1.4.9. Agreement Administration.**

- 1.4.9.1. Independent Entity.** The status of the ACO shall be that of an independent contractor. The ACO, its employees, agents, and any subcontractors performing under this Agreement are not employees or agents of the State or any agency, division, or department of the State simply by virtue of work performed pursuant to this Agreement. Neither the ACO nor its employees shall be considered employees of the Agency or the State for federal or state tax purposes simply by virtue of work performed pursuant to this Agreement. The Agency will not withhold taxes on behalf of the ACO (unless required by law).
- 1.4.9.2. Non-Exclusive Rights.** This Agreement is not exclusive. The Agency reserves the right to select other ACOs to provide deliverables similar or identical to those described in the Scope of Work during the term of this Agreement.
- 1.4.9.3. Amendments.** This Agreement may only be amended by mutual written consent of the parties, with the exception of (1) the Agreement end date, which may be extended under the Agency's sole discretion, and (2) the Business Associate Agreement, which may be modified or replaced on notice pursuant to Section 1.5, Business Associate Agreement. Amendments shall be executed on a form approved by the Agency that expressly states the intent of the parties to amend this Agreement. This Agreement may only be amended by mutual written consent of the parties. This Agreement shall not be amended in any

way by use of terms and conditions in an invoice or other ancillary transactional document. To the extent that language in a transaction document conflicts with the terms of this Agreement, the terms of this Agreement shall control.

- 1.4.9.4. No Third Party Beneficiaries.** There are no third party beneficiaries to this Agreement. This Agreement is intended only to benefit the State and the ACO.
- 1.4.9.5. Use of Third Parties.** The Agency acknowledges that the ACO may contract with third parties for the performance of any of its obligations under this Agreement. The ACO shall notify the Agency in writing of all subcontracts relating to deliverables to be provided under this Agreement prior to the time the subcontract(s) become effective. The Agency reserves the right to review and approve all subcontracts. The ACO may enter into these contracts to complete the project provided that the ACO remains responsible for all deliverables provided under this Agreement. All restrictions, obligations, and responsibilities of the ACO under this Agreement shall also apply to the subcontractors and the ACO shall include in all of its subcontracts a clause that so states. The Agency shall have the right to request the removal of a subcontractor from the Agreement for good cause.
- 1.4.9.6. Not a Joint Venture.** Nothing in this Agreement shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto. No party, unless otherwise specifically provided for herein, has the authority to enter into any Agreement or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Agreement.
- 1.4.9.7. Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Agreement.
- 1.4.9.8. Records Retention and Access.**
- 1.4.9.8.1. Financial Records.** The ACO shall maintain accurate, current, and complete records of the financial activity of this Agreement which sufficiently and properly document and calculate all charges billed to the Agency throughout the term of this Agreement and for a period of at least seven (7) years following the date of final payment or completion of any required audit (whichever is later). If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the seven (7) year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular seven (7) year period, whichever is later. The ACO shall permit the Agency, the Auditor of the State of Iowa or any other authorized representative of the State and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records, or other records of the ACO relating to orders, invoices or payments, or any other documentation or materials pertaining to this Agreement, wherever such records may be located. The ACO shall not impose a charge for audit or examination of the ACO's books and records. Based on the audit findings, the Agency reserves the right to address the ACO's board or other managing entity regarding performance and expenditures. When state or federal law or the terms of this Agreement require compliance with OMB Circular A-87, A-110, or other similar provision addressing proper use of government funds, the ACO shall comply with these additional records retention and access requirements:
- 1.4.9.8.1.1.** Records of financial activity shall include records that adequately identify the source and application of funds. When the terms of this Agreement require matching funds, cash contributions made by the ACO and third-party in-kind (property or service) contributions, these funds must be verifiable from the ACO's records. These records must contain information pertaining to Agreement amount, obligations, unobligated balances, assets, liabilities, expenditures, income, and third-party reimbursements.

- 1.4.9.8.1.2.** The ACO shall maintain accounting records supported by source documentation that may include but are not limited to cancelled checks, paid bills, payroll, time and attendance records, and Agreement award documents.
- 1.4.9.8.1.3.** The ACO, in maintaining project expenditure accounts, records and reports, shall make any necessary adjustments to reflect refunds, credits, underpayments or overpayments, as well as any adjustments resulting from administrative or compliance reviews and audits. Such adjustments shall be set forth in the financial reports filed with the Agency.
- 1.4.9.8.1.4.** The ACO shall maintain a sufficient record keeping system to provide the necessary data for the purposes of planning, monitoring, and evaluating its program.
- 1.4.9.8.2. Client Records** The ACO shall retain all non-medical and medical client records for a period of seven(7) years from the last date of service for each client; or in the case of a minor patient or client, for a period consistent with that established by Iowa Code § 614.1(9).
- 1.4.9.9. Qualified Service Organization.** The ACO acknowledges that it will be receiving, storing, processing, or otherwise dealing with confidential patient records from programs covered by 42 CFR Part 2, and the ACO acknowledges that it is fully bound by those regulations. The ACO will resist in judicial proceedings any efforts to obtain access to patient records except as permitted by 42 CFR Part 2. "Qualified Service Organization" as used in this Agreement has the same meaning as the definition set forth in 42 CFR § 2.11.
- 1.4.9.10. Business Associate Agreement.** The ACO, acting as the Agency's Business Associate, performs certain services on behalf of or for the Agency pursuant to this Agreement that require the exchange of information that is protected by the Health Insurance Portability and Accountability Act of 1996, as amended, and the federal regulations published at 45 CFR part 160 and 164. The Business Associate agrees to comply with the Business Associate Agreement Addendum (BAA), and any amendments thereof, as posted to the Agency's website:  
<http://www.dhs.state.ia.us/Consumers/Health/HIPAA/Home.html>. By signing this Agreement, the Business Associate consents to receive notice of future amendments to the BAA through electronic mail. The Business Associate shall file and maintain a current electronic mail address with the Agency for this purpose. The Agency may amend the BAA by posting an updated version of the BAA on the Agency's website at: <http://www.dhs.state.ia.us/Consumers/Health/HIPAA/Home.html>, and providing the Business Associate electronic notice of the amended BAA. The Business Associate shall be deemed to have accepted the amendment unless the Business Associate notifies the Agency of its non-acceptance in accordance with the Notice provisions of the Agreement within 30 days of the Agency's notice referenced herein. Any agreed alteration of the then current Agency BAA shall have no force or effect until the agreed alteration is reduced to an Agreement amendment that must be signed by the Business Associate, Agency Director, and the Agency Security and Privacy Officer.